



Appeal Decision

Site visit made on 24 January 2023

by P. D. Biggers BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th February 2023

Appeal Ref: APP/C1570/W/22/3307086

Land adjoining 2 White Cottages, Start Hill, Stane Street, Great Hallingbury CM22 7TG.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Aaron Colaco (AAC Building Project Ltd) against the decision of Uttlesford District Council.
 - The application Ref UTT/22/1719/FUL dated 1 July 2022, was refused by notice dated 16 August 2022.
 - The development proposed is erection of 3 no dwelling houses including a three bed detached house and a pair of three bed semi-detached houses including 7 No parking spaces, access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 3 no dwelling houses including a three bed detached house and a pair of three bed semi-detached houses including 7 No parking spaces, access and landscaping at land adjoining 2 White Cottages, Start Hill, Stane Street, Great Hallingbury CM22 7TG in accordance with the terms of the application, Ref UTT/22/1719/FUL dated 1 July 2022 and subject to the conditions at Schedule A below.

Main Issues

2. The main issues in this case are whether the proposed development would have a detrimental impact on :
 - The character and appearance of the countryside setting of the site and its surroundings.
 - Highway safety as a result of the proposed parking arrangements.

Reasons

3. The land the subject of this appeal lies immediately to the south of the B1256 Dunmow Road at Start Hill and forms a gap in a ribbon of development which extends east and west of the site. On the south side of the road development generally follows an approximately uniform building line with a mix of semi-detached houses, bungalows and cottages in a variety of styles. Generally, with the exception of White Cottages, the houses are set back slightly from the road behind frontage parking areas. The appeal site lies between White Cottages and The Pines but is at a lower level to both properties. The southern edge of the site is fringed with trees and warehousing associated with Stansted Airport lies to the south.

4. The site is outside the development limits defined for Start Hill in the *Uttlesford Local Plan* (ULP) but lies immediately adjacent to the boundary on the south side of the road. Being outside the defined development limits the site lies within the countryside and is therefore subject to ULP Policy S7 which is generally restrictive of development in the rural areas.
5. However, in view of the age of the ULP and the fact that it predates the *National Planning Policy Framework* (the Framework) a *Compatibility Assessment* was carried out in 2012 immediately following the publication of the first version of the Framework. This found that protecting the countryside for its own sake was no longer consistent with the Framework. The matter of the weight that can be attached to Policy S7 in the light of subsequent revisions to the Framework has been considered in several recent appeals within the district. The consensus arising out of the appeal decisions and with which I concur, is that of the three elements to the Policy, the first two - protecting the countryside for its own sake and restricting development only to that needed or appropriate to the countryside - were no longer consistent with the Framework and therefore carried very limited weight. The only element carrying weight and remaining consistent with the Framework at paragraph 174, where it requires decisions to recognise the intrinsic character and beauty of the countryside, is the last clause requiring the appearance of development to protect or enhance the particular character of the part of the countryside within which it is set.
6. In any event the site benefits from a planning permission in outline for residential development for 2 houses (Ref UTT/18/0999/OP) with all matters except access reserved and therefore, despite Policy S7, the principle of residential development on the site has been established.
7. The appeal proposal would introduce a detached house and a pair of semi detached houses to the site and it has been put to me that this would result in overdevelopment of the site and development of a form and design that was suburban in appearance and out of keeping with the rural character of the surroundings.
8. Having considered the character of this area of Start Hill on the site visit it appears to me to be at best only semi-rural in character, the immediate vicinity being characterised by a ribbon of development. I have been invited to conclude that development for 3 houses would result in a cramped, closely spaced form of development at odds with the surrounding area. However, looking at the form of development in the vicinity, although the north side of Dunmow Road may be more spacious, the south side ribbon of development does not have significantly greater side separation than is proposed on the appeal site and is dominated by frontage parking. Particularly in respect of the ribbon of semi-detached dwellings, the plot density and size would be very similar to that proposed on the appeal site.
9. I note the concern regarding the design of the houses that they would appear out of keeping with the surroundings in terms of their scale and height. However, for a number of reasons I am not persuaded that this is a matter of concern. First the site sits adjacent to White Cottages which have been extended in the past on their east side with a tall 2.5 storey addition not dissimilar to the design proposed for the detached unit on the appeal site. Although it has been put to me that the top window in the gabled extension only provides light to an attic level and not to accommodation, the fact remains that the gable end has all the appearance of a 2.5 storey property highly visible, particularly in the approach from the east along

Dunmow Road. It establishes a design form which is reflected in the proposed houses.

10. Secondly, the site levels mean that the proposed houses would be set at a lower level than the surrounding housing and compared to White Cottages the ridge level would be lower. I accept that on the east side of the site the immediately adjoining property, The Pines, is a bungalow but the fact that it is some distance from the detached house and set at a higher level would reduce the visual impact of the apparent difference in heights. In views in both directions along Dunmow Road I am not persuaded that the houses proposed would appear at odds with their surroundings and the proposal to screen parking by utilising the lower site level would be a significant improvement over the approach to off-road parking further east where the parking dominates the frontage.
11. In drawing the discussion on character and appearance to a conclusion there would clearly be some impact from the development of what is currently an open site. However, for all the reasons above and in the context of the mixed styles of property on the south side of the road in Start Hill I am not persuaded that the impact on the character and appearance of this area of countryside on the edge of Start Hill would be significant. In the context of Policy S7 I am satisfied that the particular character of the part of the countryside within which the development would be set and which is already somewhat suburban in character would not be significantly harmed by the addition of a third dwelling or by the design proposed. Moreover, for the same reasons, the development would not be contrary to the principles set out in ULP Policy GEN2.

Highway Safety

12. The second reason for refusal relates to highway safety due to concerns that parking provision on site may be insufficient and result in on-street parking for the development.
13. The appeal site is accessed direct off the B1256 Dunmow Road, Start Hill. It has been put to me that, even if the provision on site proved inadequate, parking on-street could be achieved without adverse impact on highway safety. However, this section of Dunmow Road is a busy, straight stretch of rural road on the approach into the M11 and Stansted junction. From my observations on the site visit regarding the volume and speed of traffic, to create a situation where the site was dependent on on-street parking would have an adverse effect on highway safety and therefore the development must be provided with sufficient parking on site.
14. The proposal shows the access ramping down at the eastern end of the site into a shared forecourt with a covered parking area along the retaining wall to the road to accommodate 6 car parking spaces. 1 additional space would be provided in front of the detached dwelling. It appears to be common ground that 7 spaces would be an appropriate provision ie two spaces per dwelling and one visitor space.
15. However, I have been invited to conclude that the dimensions of the bays under the pergola are inadequate both in respect of width and length whilst adhering to the minimum standard set out in the *Essex Parking Standards* (EPS) (5.5 x 2.9 metres) and would not therefore accommodate 6 cars. I have also been referred to the *Manual for Streets* parking space dimensions which typically are lower, closer to the lower dimensions the EPS list as acceptable in exceptional circumstances

(5.0 x 2.5 metres). It is these lower dimensions the appellant is proposing on the appeal site.

16. The Highway Authority have made it clear that they do not object to the development if the parking issue could be resolved. Looking at the situation on site and the proposed forecourt depth there does not appear to be any reason why the increased length of bay could not be provided under the pergola if I were to attach a condition requiring submission of a parking scheme for approval. The issue relates to the width of bay and the ability to easily access vehicles if all the bays were occupied.
17. On site it appeared to be the case that there were options available to accommodate the necessary parking. For example increasing the side separation on the eastern boundary slightly would allow parking 2 cars in a tandem arrangement on the east side of the detached unit. This would then mean only 5 spaces instead of 6 would need to be accommodated in the pergola parking area allowing the preferred bay width to be achieved and to retain the tree on the western boundary of the site. The submission of a scheme that resolved the parking concerns could be achieved by condition were I to allow the appeal.
18. Although it has been put to me by a third party that constructing only two dwellings on site would allow these to be pulled forward in the site with parking to the sides I am not persuaded that this could be achieved due to the significant change in levels between the road and the site. Moreover, the earlier outline application in which access was not reserved was permitted with a very similar access arrangement. This does mean that the concept of the housing being set back behind a parking court has been accepted as appropriate.
19. In conclusion, for the above reasons, I am not persuaded that a satisfactory parking scheme could not be achieved through the imposition of a condition. In this way, there would be no dependence on on-street parking, and as a result no unacceptable impact on highway safety which is the test in the Framework. For the same reasons there would not be conflict with ULP Policy GEN1 on access and GEN8 on parking.

Other Matters

20. The proposal would result in the provision of three new houses. In that way it would make a modest contribution to meeting housing needs in Uttlesford District as a whole.
21. Whereas at the time the application was being determined the council admitted that there was only a 3.11 years supply of available housing, a significant housing shortfall, subsequent assessment and analysis has revised this to 4.89 years supply. I note that the published *Housing Delivery Target* (HDT) results for Uttlesford in 2022 show that in the last 3 years the District achieved slightly below target (99%). Notwithstanding the fact that the housing supply situation appears to have improved, there remains a shortfall. The policies of the adopted ULP influencing housing supply, including Policy S7, are therefore out of date and the emerging Local Plan has, at this point, no proposed allocations to demonstrate how the shortfall will be made up. The 'tilted balance' set out in the Framework at Paragraph 11d) is therefore engaged – a point not disputed by the parties. In this context, the supply of further housing even on a small site such as the appeal site would be important.

22. With the Framework's 'tilted balance' engaged it is important to apply that balance. Paragraph 11d) of the Framework provides that the presumption in favour should apply other than in two circumstances. The first of these, namely where the development would conflict with Framework policies to protect areas or assets of particular importance would not apply in this case. There are no built or natural environment assets in the vicinity of the site. The second circumstance requires that permission is granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Policies in respect of supply of housing on small sites and making efficient use of land would support the proposal and as discussed there would be no significant harm from the development of the site for three units rather than two and it would not be in conflict with the Framework policies in respect of design, local character and highway safety.
23. Other concerns have been raised by third parties that the development would result in the loss of the tree on the western boundary of the site, overlooking and amenity issues for neighbouring occupants and that the plans are inaccurate.
24. In respect of the tree, as discussed above, a revised parking scheme can avoid the removal of the tree and a condition can be imposed to protect it during building.
25. In respect of overlooking and loss of amenity, the dwelling closest to White Cottages only has one obscure glazed window at first floor level facing west. There would be a dormer on the front and rear roof slope but any view from this towards the garden areas of White Cottages would be at an oblique angle and in any event the degree of overlooking would not be dissimilar to that frequently occurring between properties and adjacent gardens. With the new houses on the east side of White Cottage there would be only limited overshadowing. Regarding the relationship of the proposed detached dwelling to The Pines, the elevations show there would be 3 bedroom windows in total at first and second floor facing east. I note that the proposed floorplan is at odds with the proposed elevations and shows 2 larger windows at first floor and 2 larger windows in the roof level accommodation but this can be controlled by condition to ensure the design is as shown in the proposed elevations. The windows in the new dwelling would be over 20 metres from the nearest part of the dwelling at The Pines and overlooking would not therefore be significant. For the same reason of distance between the two properties any overshadowing would be limited to periods when the sun is lower in the west during the winter months.
26. In addition to the inaccuracy between the floorplans and elevations, the floorplan also shows the detached dwelling as a four bedroom house when the application states it would be a three bedroom dwelling. However, as I have assessed the proposal on the basis of the floorplan as submitted and the proposed fourth bedroom would not have a bearing on the external appearance or dimensions of the house, whether it is used as a bedroom or for some other purpose would be a matter for a future occupant.
27. Third party concerns can therefore be appropriately mitigated by controlling conditions and the presumption in favour of development should therefore apply in this case.

Conclusion and Conditions

28. In reaching my decision I have had regard to the matters before me. The above assessment in terms of Paragraph 11 of the Framework shows that the

presumption in favour of development would apply. For the reasons above the appeal should be allowed and planning permission granted for 3 dwellings on the appeal site subject to conditions.

29. The Council's consultees have suggested conditions in their respective fields but the Council itself proposed no conditions in the event that the appeal was allowed. Accordingly, both the Council and appellant were consulted on a proposed list of conditions and offered the opportunity to comment. Both parties have responded agreeing with the imposition of the proposed conditions in the event the appeal is allowed and permission granted and that they are all necessary.
30. I have considered the resulting conditions in the light of the advice in the Framework and *Planning Practice Guidance*. A condition requiring development to be carried out in accordance with the submitted plans is necessary in the interest of certainty. However as explained above because of a discrepancy between the floor plans and the elevations in the detached dwelling I have inserted an additional section to this condition confirming that it should be the fenestration detail in the proposed elevations that should be implemented and not that shown in the proposed floorplan.
31. Given the proximity to Stansted Airport four conditions are necessary to ensure the safety of aircraft on the approach to and leaving Stansted as they overfly the site. The conditions are required to control dust and smoke clouds and airborne debris during construction, to avoid construction practices that would attract birds to the site, to control any upward external lighting and to remove permitted development rights for solar panels and any other reflective surfacing that might introduce glare.
32. In order to prevent flooding it is necessary to ensure the satisfactory storage/disposal of surface water from the site. The Council proposes a condition requiring the submission of a surface water drainage scheme.
33. Both in respect of noise from air traffic and from the busy B1256 a condition is necessary to control the development to ensure that the living conditions for occupants in terms of noise generation would be acceptable and a reasonable internal and external acoustic environment would be achieved.
34. Although it is not thought that the site is contaminated the Council has suggested a precautionary condition setting out the obligations on the developer in the event that contamination is encountered during construction. The condition is necessary for the protection of future occupants and the environment.
35. Three conditions need to be added in the interests of securing highway safety. These are necessary to control the provision of access and crossings within the highway, the provision of pedestrian visibility splays and the submission of an off-street parking scheme that will provide 7 spaces to standard. To provide for sustainable means of travel, notwithstanding the proximity of the bus stop adjacent to the site, it is necessary to ensure each house has secure cycle parking facilities on plot.
36. In the interests of helping to enhance the development in its setting three conditions are necessary relating to submission of details and samples of materials to be used on the exterior of the building and the submission and implementation of a landscaping scheme as minimal details have been provided of the latter. In addition, in order to ensure protection of the remaining trees on site and in particular the tree adjacent to the pergola parking area towards the front of the site, a tree protection condition is also necessary.

37. Finally, in order to control any adverse impacts during construction. A construction management plan (CMP) is necessary setting out how the construction will be controlled to ensure highway safety and to minimise impact on existing neighbouring occupants.
38. Although pre-commencement conditions are generally to be avoided, five of the proposed conditions need to be pre-commencement conditions relating to the submission of a surface water drainage scheme, the parking scheme, the landscaping scheme, tree protection and the CMP either because details submitted may affect the final layout or because they must be in place to control construction from the very start for example the CMP and tree protection. In agreeing to the wording of the conditions when consulted on them the appellant has agreed to the necessity of these being pre-commencement conditions.

P. D. Biggers

INSPECTOR

Schedule A Conditions

1. The development hereby permitted must be begun no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the submitted documents and the following approved plans: A10-010 PO2; A10-011 PO2; A10-100 PO1; A10-101 PO1; A10 300 PO1; A10-301 PO1; A10-302 PO2 A10-303 PO1.
For the avoidance of doubt the fenestration on the east-facing elevation of the detached dwelling facing The Pines shall be as shown on the proposed elevation drawing and not as shown on the proposed floorplan. (This is necessary due to a discrepancy between the floor plans and elevations in respect of fenestration).
3. During construction, robust measures must be taken to control dust, smoke clouds and all waste materials (i.e. waste to be stored securely to prevent it becoming airborne).
4. During construction and in perpetuity, robust measures must be taken to prevent species of birds that are hazardous to aircraft being attracted to the site. Any food waste to be securely bagged/stored to avoid becoming wildlife attractants. No pools or ponds of water should occur/be created without permission.
5. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order), all exterior lighting shall be capped at the horizontal with no upward light spill.
6. Notwithstanding the provision of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order) no reflective materials (other than clear or obscure glass), including solar PV panels, shall be added to the building without the express consent of the local planning authority.

7. No development shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority.
The scheme shall be subsequently implemented in accordance with the approved details before the development is completed.
8. Prior to any above ground development a robust and comprehensive design scheme shall be submitted for the protection of the dwellings hereby approved, from noise from air and road traffic sources, for approval in writing by the Local Planning Authority. The scheme shall ensure that reasonable internal and external noise environments are achieved in accordance with the provisions of BS8233:2014. Calculations should be done in accordance with the detail given in Annex G2. No dwellings shall be occupied until the scheme providing protection for those dwellings has been implemented in accordance with the approved details and has been demonstrated to achieve the required noise levels to the satisfaction of the Local Planning Authority. The approved scheme shall be retained in accordance with those details thereafter.
9. If during any site investigation, excavation, engineering or construction works evidence of land contamination is identified, the applicant shall notify the Local Planning Authority without delay. Any land contamination identified, shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.
10. Prior to occupation of the development the vehicular access shall be constructed at right angles to the highway boundary and to the existing carriageway. The width of the access at its junction with the highway shall not be less than 5.5 metres, shall be retained at that width for 6 metres within the site and shall be provided with an appropriate dropped kerb vehicular crossing of the footway /highway verge.
11. Prior to occupation of the development a 1.5 metre x 1.5 metre pedestrian visibility splay, as measured from and along the highway boundary, shall be provided on both sides of the vehicular access. Such visibility splays shall be retained free of any obstruction in perpetuity. These visibility splays must not form part of the vehicular surface of the access.
12. No development may commence until a detailed parking scheme demonstrating satisfactory provision for 7 parking spaces (2 per dwelling plus 1 visitor space including provision of electric vehicle charging) has been submitted to and approved by the Local Planning Authority. For the avoidance of doubt the scheme must allow for the retention of the tree at the west end of the pergola parking. The parking scheme shall be implemented and spaces provided prior to first occupation of development and retained thereafter.
13. Prior to first occupation of the dwellings hereby permitted secure cycle storage for a minimum of 2 cycles per dwelling shall be provided and retained thereafter.
14. No development above floor slab level shall take place until details and samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The permitted works shall be carried out in accordance with the approved details and samples.

15. No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and new planting.
16. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
17. No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.
In this condition "retained tree" includes the existing tree on the west boundary of the site adjacent to the pergola covered parking bays.
18. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works
 - delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.